

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 04-CR-80844

vs.

Hon. Gerald E. Rosen

PHILLIP ZABAWA,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND DENYING DEFENDANT'S MOTION
TO DISMISS FOR SPEEDY TRIAL VIOLATIONS

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on August 5, 2010

PRESENT: Honorable Gerald E. Rosen
United States District Chief Judge

This matter is presently before the Court on the July 16, 2010 Report and Recommendation of United States Magistrate Judge Donald A. Scheer recommending that the Court deny Defendant's Motion to Dismiss for Speedy Trial Violations. Defendant timely filed Objections to the R&R.

The Magistrate Judge conducted a two-day evidentiary hearing on this matter after which he issued a 46-page Report and Recommendation in which he made detailed findings of fact and determinations of credibility of the witnesses. These factual findings and credibility determinations provided the basis of the Magistrate Judge's conclusion that no

Speedy Trial Act or Sixth Amendment violation occurred.

Defendant does not object to any of the factual findings or credibility determinations. Rather, Defendant merely reiterates the arguments he made in his pre-hearing briefs with respect to his Speedy Trial Act claim and, with respect to his Sixth Amendment claim, Defendant's objections concern only the Magistrate Judge's conclusions of reasonableness of several periods of delay and his conclusion that much of the delay was chargeable to the defense.

Having reviewed the Magistrate's Report and Recommendation, Defendant's Objections, and the entire record of this matter (including the post-hearing supplemental submission filed by the Government as directed by the Magistrate Judge) the Court hereby **OVERRULES** Defendant's Objections and concludes that Defendant's Motion to Dismiss should be denied.

NOW, THEREFORE,

IT IS HEREBY ORDERED that the Magistrate Judge's July 16, 2010 Report and Recommendation [**Dkt. # 101**] is **ADOPTED** by the Court.

IT IS FURTHER ORDERED, for the reasons stated in the Report and Recommendation, that Defendant's Motion to Dismiss for Speedy Trial Violations [**Dkt. # 71**] is **DENIED**.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: August 5, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 5, 2010, by electronic and/or ordinary mail.

s/Ruth A. Gunther
Case Manager